



1 Plaintiff appeals the ALJ's determination that her disability ended on October 17,  
2 2006. The Commissioner's decision to deny or award benefits will be overturned "only if  
3 it is not supported by substantial evidence or is based on legal error." Magallanes v. Bowen,  
4 881 F.2d 747, 750 (9th Cir. 1989) (quotation omitted). Plaintiff contends that the ALJ's  
5 decision to close the benefit period was not supported by substantial evidence because he  
6 misinterpreted a recommendation from plaintiff's treating physician, Dr. Paul W. LaPrade,  
7 Jr., regarding her ability to work. We disagree.

8 Contrary to plaintiff's position, the ALJ's finding that she was able to perform  
9 sedentary work as of October 17, 2006 was not based solely on a single notation from Dr.  
10 LaPrade. The ALJ undertook an extensive review of the record documenting the progression  
11 of plaintiff's treatment. Tr. at 27. The ALJ also based his finding on a detailed medical  
12 assessment completed by Dr. LaPrade on October 17, 2006 indicating that plaintiff could  
13 perform the functions required for sedentary work, including: sitting 2 hours at a time for an  
14 8 hour work day; carrying 5 pounds frequently and 10 pounds occasionally; and bending,  
15 squatting, crawling, climbing, and reaching occasionally. Tr. at 28. These findings are  
16 sufficient to support a conclusion that plaintiff was able to perform sedentary work. See 20  
17 C.F.R. § 404.1567(a) (defining sedentary work). We conclude, therefore, that the ALJ's  
18 decision to end plaintiff's disability period on October 16, 2006 was supported by substantial  
19 evidence and not in error.

20 Plaintiff requested reconsideration of the ALJ's decision, and in support of her  
21 request, she submitted a letter from Dr. LaPrade, dated February 15, 2007, concluding that  
22 she was still unable to work. Tr. at 434. The Appeals Council considered Dr. LaPrade's  
23 letter, but found that it did "not contain any clinical or laboratory findings which would  
24 warrant a change in the [ALJ's] decision."<sup>1</sup> Id. at 6. We agree. A physician's opinion as to  
25 the ultimate issue of plaintiff's ability to work is not binding, 20 C.F.R. § 404.1527(e)(1), and  
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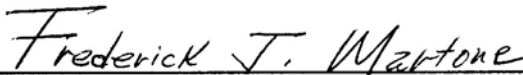
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27 <sup>1</sup>We need not address whether the Appeals Council had "good cause" to receive new  
28 evidence because the parties agree that Dr. LaPrade's letter should have been considered.  
See Ramirez v. Shalala, 8 F.3d 1449, 1451-52 (9th Cir. 1993).

1 a treating physician's opinion may be rejected where the opinion is "brief, conclusory, and  
2 inadequately supported by clinical findings." Thomas v. Barnhart, 278 F.3d 947, 957 (9th  
3 Cir. 2002) (citation omitted). Dr. LaPrade's statement that the plaintiff was unable to work  
4 as of February 15, 2007 was unsupported by any medical evidence and directly contradicted  
5 the detailed medical assessment he completed months before. Tr. at 434 & 397-99.  
6 Therefore, Dr. LaPrade's letter does not require that the ALJ's decision closing the benefits  
7 period be vacated.

8 Accordingly, **IT IS ORDERED DENYING** plaintiff's motion for summary judgment  
9 (doc. 12). **IT IS FURTHER ORDERED GRANTING** defendant's cross motion for  
10 summary judgment (doc. 19).

11 DATED this 1<sup>st</sup> day of May, 2009.

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 Frederick J. Martone  
16 United States District Judge  
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